

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSE HERNANDEZ, et al.,
Plaintiffs,
v.
SURINDER SROA, et al.,
Defendants

No. 08-2804 MMC

**ORDER CONDITIONALLY GRANTING
PLAINTIFFS' MOTION FOR LEAVE TO
FILE FIRST AMENDED COMPLAINT;
VACATING FEBRUARY 27, 2009
HEARING; ADVANCING STATUS
CONFERENCE**

Before the Court is plaintiffs' "Motion for Leave to File a First Amended Complaint," filed January 15, 2009, as supplemented February 9, 2009. None of the remaining defendants has filed a response thereto.

Having read and considered the papers filed in support of the motion, the Court finds the matter suitable for decision thereon, VACATES the hearing scheduled for February 27, 2009, and hereby rules as follows:

1. To the extent plaintiffs seek to amend to delete claims against defendants BNC Mortgage, Inc., Option One Mortgage Corporation, Citibank (West), FSB, Old Republic Title Company, Terry McGillicuddy, and Reliable Trust Deed Services, Inc., the motion is hereby GRANTED.

2. To the extent plaintiffs seek to amend to revise the factual basis of its claims against existing defendants Kurt Menon ("Menon") and Argentum Real Estate and

1 Mortgage ("Argentum"), the motion is hereby GRANTED, conditioned on plaintiffs' serving
2 the First Amended Complaint ("FAC") on Menon and Argentum, pursuant to Rule 4 of the
3 Federal Rules of Civil Procedure, no later than April 6, 2009, and filing proof of such service
4 no later than April 13, 2009. See Fed. R. Civ. P. 5(a)(2) (providing amended complaint that
5 alleges new claims against defendants in default "must be served on that party under Rule
6 4").¹

7 3. To the extent plaintiffs seek to amend to add Sterling Savings Bank ("Sterling") as
8 a new defendant hereto, the motion is hereby GRANTED, conditioned on plaintiffs' serving
9 the FAC on Sterling, pursuant to Rule 4, no later than April 6, 2009, and filing proof of such
10 service no later than April 13, 2009.

11 4. Plaintiffs shall file the FAC no later than March 6, 2009.

12 5. The Status Conference, currently scheduled for July 17, 2009, is hereby
13 ADVANCED to May 14, 2009. A Joint Status Conference Statement shall be filed no later
14 than May 7, 2009.

15 **IT IS SO ORDERED.**

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17 Dated: February 20, 2009

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19 MAXINE M. CHESNEY
20 United States District Judge
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27 ¹The proposed FAC includes new factual allegations against Menon and Argentum.
28 (See, e.g., proposed FAC ¶¶ 39, 80, 94.) Upon request of plaintiffs, the Clerk of the Court
previously entered the default of Menon and Argentum with respect to the initial complaint.